

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

LONNIE L. BURTON,

Plaintiff,

VS.

SGT. JOHNSON, JOHN DOES 1  
and 2, and SGT ADAMS,

## Defendants.

NO. 2:14-cv-00133-JPH

REPORT AND RECOMMENDATION TO  
GRANT MOTION TO VOLUNTARILY  
DISMISS AND TO WAIVE  
COLLECTION OF THE FILING FEE

BEFORE THE COURT on Report and Recommendation is Plaintiff Lonnie L. Burton's Motion to Voluntarily Dismiss Complaint pursuant to Fed. R. Civ. P. 41(a). Defendants have not been served in this action. Accordingly, **IT IS RECOMMENDED** Plaintiff's Motion, ECF No. 9, be **GRANTED** and the Complaint be **DISMISSED WITHOUT PREJUDICE**.

Plaintiff also filed a Motion and Affidavit to waive collection of the remaining balance of the filing fee in this action. For good cause shown, **IT IS RECOMMENDED** that Plaintiff's Motion, ECF No. 10, be **GRANTED** and the institution having custody of Mr. Burton be directed to cease collection of the filing fee in this action, cause number 2:14-cv-00133-JPH.

## OBJECTIONS

Any party may object to a magistrate judge's proposed findings, recommendations or report within fourteen (14) days following service with a copy thereof. Such party

1 shall file written objections with the Clerk of the Court and serve objections on all  
2 parties, specifically identifying the portions to which objection is being made, and the  
3 basis therefor. Any response to the objection shall be filed within fourteen (14) days after  
4 receipt of the objection. Attention is directed to FED. R. CIV. P. 6(e), which adds  
5 additional time after certain kinds of service.

6 A district judge will make a de novo determination of those portions to which  
7 objection is made and may accept, reject, or modify the magistrate judge's determination.  
8 The judge need not conduct a new hearing or hear arguments and may consider the  
9 magistrate judge's record and make an independent determination thereon. The judge  
10 may, but is not required to, accept or consider additional evidence, or may recommit the  
11 matter to the magistrate judge with instructions. *United States v. Howell*, 231 F.3d 615,  
12 621 (9th Cir. 2000); 28 U.S.C. § 636(b)(1)(B) and (C), FED. R. CIV. P. 72; LMR 4, Local  
13 Rules for the Eastern District of Washington.

14 A magistrate judge's recommendation cannot be appealed to a court of appeals;  
15 only the district judge's order or judgment can be appealed.

16 **IT IS SO RECOMMENDED.** The District Court Executive is directed to enter  
17 this Report and Recommendation, forwarded a copy to Plaintiff and SET A CASE  
18 MANAGEMENT DEADLINE ACCORDINGLY.

19 **DATED** this 22<sup>nd</sup> day of July, 2014.  
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22 *S/ James P. Hutton*  
23 JAMES P. HUTTON  
24 UNITED STATES MAGISTRATE JUDGE  
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